

BRIEFING SHEET

The Tennessee
Commission on
Children and Youth

The 21st Annual

Children's Advocacy Days

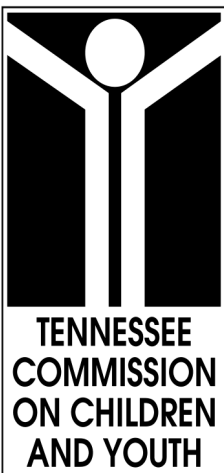
"Growing the Next Generation"

March 10-11 2009

Mission:

The Tennessee
Commission on
Children and Youth
advocates to improve
the quality of life for
children and families
and provides
leadership and support
for child advocates.

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ADVOCACY

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ISSUES IMPACTING TENNESSEE CHILDREN WHAT LEGISLATORS CAN DO!

PRE-K

Vote **YES** to continue **funding for Pre-K Programs** in Tennessee. Pre-K is the best investment we can make today to improve the future for Tennessee children. Like the construction of a home, the building process begins with laying the foundation, framing the rooms, and wiring the electrical system in a predictable sequence. In a young child's brain, simple circuits and skills provide the scaffolding for more advanced circuits and skills. Through this process, early experiences create a foundation for lifelong learning, behavior, and both physical and mental health. Expanding Pre-K is a long-term strategy for improving high school graduation rates and other outcomes for children, with evaluations indicating every dollar invested in Pre-K saves up to \$17 in cost avoidance for undesirable outcomes. As with home building, when it comes to the development of children, it's better to do things right the first time rather than having to make costly expenditures to correct problems later. Children need an environment of supportive, positive relationships to build sturdy brain architecture. Quality Pre-K is a vital part of that environment. New economic research demonstrates the real benefits of early childhood education are not from making children smarter, but from nurturing the children's people skills. It's not just about reading proficiency; it's about social competence.

COORDINATED SCHOOL HEALTH

Vote **YES** to continue **funding for Coordinated School Health (CSH)** to maintain basic infrastructure of at least a coordinator in each district. CSH is an evidence-based program that improves a wide range of outcomes for children. CSH components include: health education; physical education; health services; nutrition services; counseling; psychological and social services; healthy school environment; health promotion for staff; and family/community involvement. The ten CSH pilot sites' data show improvements in: student's weight status; increased number of health screenings; increased interventions by school nurses; increased instructional time for students; and a correlation between CSH and improved graduation and reduced drop-out rates.

FEDERAL STIMULUS PACKAGE

Vote **YES** for Tennessee **to receive Federal funding** available in the stimulus plan. Child outcomes are inherently intertwined with family economic success, so any jobs created by the stimulus dollars would likely help Tennessee children. The Center on Budget and Policy Priorities reports failure of states to accept the stimulus funds and use as intended could weaken the new law's impact, and possibly even prolong the recession, by reducing the amount of stimulus injected into the economy. It has been said when the national economy gets a cold, Tennessee ends up with the flu. Refusing the stimulus money for Tennessee would not reduce overall expenditures as the rejected funding would be allocated to other states. Concerns about the level of debt for our children and grandchildren are recognized and valid, but restoring growth and creating jobs now should be the primary concern in the current economic climate. The primary purpose of the stimulus is to support ongoing programs. One-time revenue should not be used for ongoing needs in normal times, but these are not normal times. When federal funds expire, Tennessee can make adjustments if necessary to reduce programs if there are insufficient resources to continue programs. Reducing programs now is counterproductive and assumes there will not be increased federal or state revenue after the stimulus.

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ELIGIBILITY TO ADOPT

Vote **NO** on legislation [SB 78 (Stanley)/HB 605 (DeBerry)] that would **shrink the pool of persons eligible to adopt** in Tennessee. With hundreds of children in state custody awaiting adoption, legislation circumscribing the adoption pool by prohibiting adoptions based on sexual orientation or marital status would be poor management of our child welfare system. It would make it even less likely these children will find forever families.

Unmarried or homosexual couples often are willing to adopt children who would be difficult, if not impossible, to place in another family, including children who are older or have serious medical and/or behavioral problems. This legislation also limits discretion of judges to approve an adoptive home as appropriate for an individual child, limits choice of birth parents when they choose a family for a child placed for adoption, and can be problematic in relative adoptions.

We already have adequate protections in place to assure adopted children are safe and well cared for in appropriate homes. Current law requires individual home studies before adults can be approved as adoptive parents, and this is the appropriate process to determine whether they should adopt. The placement process then determines whether the adults are a match for an individual child.

Tennessee has focused on moving toward more evidence-based practices in services for children, but there is no evidence restricting adoptive options helps our most vulnerable children find life-long families.

Research also does not support restricting adoption options for waiting children. The American Psychological Association reports not a single study has found children of lesbian or gay parents to be disadvantaged in any significant respect relative to children of heterosexual parents. Indeed, the evidence to date suggests home environments provided by lesbian and gay parents are as likely as those provided by heterosexual parents to support and enable children's psychosocial growth. The American Psychiatric Association reports children raised in gay or lesbian households do not show any greater incidence of homosexuality or gender identity issues than other children.

The American Academy of Pediatrics reports no systematic difference between gay and non-gay parents in emotional health, parenting skills, and attitudes toward parenting; and no data have pointed to any risk to children as a result of growing up in a family with one or more gay parents. After controlling for socioeconomic and family characteristics, other studies have found children living in cohabiting households do not differ from children in comparable married households.

Children need loving, stable, secure, nurturing families. They need someone who loves them unconditionally throughout their lives. Loving, nurturing families are defined by the quality of relationships of children and parents, not the marital status or sexual orientation of adults.

There are too many children who need loving adoptive families in Tennessee to use marital status or sexual orientation as a basis for restricting adoption. It is a disservice to the hundreds of waiting children to put more barriers in the way of them finding forever families.

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SHARED/JOINT CUSTODY AND CHILD SUPPORT

Vote **NO** on legislation [SB 50 (Bunch)/HB 398 (Rowland), SB 181 (Jackson)/HB 2 (Hardaway), SB 1257 (Bunch)/HB 802 (Campfield)] creating a **rebuttable presumption for shared or joint custody** unless the parties have agreed to such a custodial arrangement. Shared parenting is generally in the best interests of children, but only when the parents have agreed to such an arrangement. In the absence of such an agreement, there should be no presumption in favor of shared parenting. Parents who have not been able to agree on shared parenting as a custody arrangement are unlikely to be able to agree on the day-to-day decisions that must be made for their children. Custodial decisions for children should be based on the best interests of the child, as provided by current Tennessee laws that are fair and equal and do not give a preference for either parent. Custody is based on the determination of which parent is better positioned to protect the best interests of the child. Vote **NO** on legislation [SB 1096 (Stanley)/HB 877 (Hensley)] **prohibiting any child support in cases of shared parenting** when each parent has substantially equal amounts of time with the child. When there are major differences in the financial resources of parents, child support may be in the best interests of the child. Children should not have to experience deprivation in shared parenting arrangements as a result of the disparity in resources between parents.

PARENTAL ALIENATION SYNDROME

Vote **YES** on legislation [SB 829 (Marrerro)/HB 831 (S. Jones), SB 1662 (Finney)/HB 322 (S. Jones)] prohibiting testimony regarding parental alienation syndrome (PAS) or recognition of parental alienation syndrome in making custody determinations in domestic relations and custody cases in Tennessee. PAS is an allegation that a child is alienated from a parent because of brainwashing by the other parent, rather than because the child has been subject to abuse. PAS is not recognized in the Diagnostic and Statistical Manual (DSM) as a psychiatric disorder and is not considered a valid medical syndrome by the American Medical Association. There is insufficient data or evidence to validate the syndrome and therefore it should not be considered in determining custody cases. Custody determinations should be based on credible evidence and the best interests of the child should guide the court's decision.

COURT-ORDERED MENTAL HEALTH EVALUATIONS FOR JUVENILES

Vote **YES with Amendments** for legislation to address the current "crisis" in mental health services for youth involved with juvenile courts [SB 456 (Black)/HB 1623 (McDonald), SB 527 (McNally)/HB 350 (Hackworth), SB 901 (McNally)/HB 829 (Hackworth), or SB 2282 (Kyle)/HB 2295 (M. Turner)]. The "crisis" is a result of a Court of Appeals decision ruling the state has no authority to pay for inpatient mental health evaluations for juveniles. These evaluations are generally referred to as Juvenile Court Commitment Orders (JCCOs). However, prior to the ruling, there was an imbalance in terms of the number of JCCO inpatient evaluations when outpatient evaluations would have been more appropriate in many cases, less stigmatizing for youth, and less costly. Current reports indicate the system has been somewhat "righting" itself in this situation and strategies have been developed and are developing to provide needed mental health evaluations. These strategies better use existing resources and payment mechanisms, including TennCare, community mental health centers, residential treatment centers, mobile crisis services and other resources. The Department of Mental Health and Developmental Disabilities (MHDD) has established contracts for the state to pay for outpatient mental health evaluations. Passing legislation authorizing inpatient evaluations with no restrictions other than a charge of a felony will lead to unnecessary and costly inpatient evaluations and undermine the progress that has been/is being made to plan a more appropriate system for mental health evaluations for children involved with juvenile courts. The Council on Children's Mental Health has established a JCCO Workgroup focused on identifying strategies for mental health evaluations. Amendments are needed to limit initial court orders for inpatient JCCOs to the offenses enumerated in 37-1-134 and/or other offenses when transfer to criminal court is under consideration, or to children who meet the standards for commitment under 37-1-128. The amendment should include development of an appropriate system of mental health evaluations for youth involved with the juvenile courts that ensures evaluations are provided in the most appropriate and cost effective settings. There should be an initial assessment and in appropriate cases, inpatient evaluations should be included as an option. Additionally, inpatient evaluations should be for only as long as necessary to complete an evaluation.

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TRANSITIONING SERVICES

Vote **YES** for legislation [(SB 638 (Marrero))/HB 686 (Richardson)] requiring the Department of Children's Services (DCS) to provide **services to young adults** who have aged out of state custody. They would benefit greatly from continued TennCare/Medicaid coverage until they are 21. Without this continued coverage, the only way for them to access TennCare is if they are female and become pregnant. Public laws and policies should encourage good health and appropriate family planning rather than providing the disincentive of becoming pregnant in order to access health coverage. Young adults would benefit from being able to enter, exit and re-enter post-custody services easily and as many times as necessary until they are beyond the age of eligibility for post-custody services. Information about post-custody services should be made available to former foster youth when they apply for other types of assistance to facilitate their request for/access to post-custody services. DCS should provide a case manager/navigator to assist former foster children access needed services when the young adults request such service. Availability of services utilizing a one-stop-shopping/resource center approach where appropriate could facilitate access to needed services for former foster youth. Young adults who have been in state custody need and deserve these services to provide them with opportunities to mature into productive citizens. Brain research demonstrates the importance of ongoing support to young adults as full frontal lobe development, the site of judgment, is not complete until around age 24 and data suggests the age of complete independence from parental support is now typically around age 24 or 25.

DEPARTMENT OF JUVENILE JUSTICE

Vote **NO** on legislation [SB 1153 (Gresham)/HB 1557 (S. Jones)] to split the Department of Children's Services to create a **separate Department of Juvenile Justice**. Though DCS struggles to adequately address the needs of the children in its custody, separation would not be in the best interest of children. Many of the needs of children who are adjudicated delinquent or unruly are the same as those who are adjudicated dependent, neglected, or abused. Many children adjudicated delinquent have also been victims of abuse or neglect, and the incidence of learning disabilities and/or mental health treatment needs is even higher among children adjudicated delinquent than those adjudicated dependent/neglected/abused. Efforts should be made to strengthen the ability of DCS to better serve all children in state custody, especially children adjudicated delinquent, rather than dismantling a system that has the potential to more appropriately address their needs. DCS needs to improve substance abuse and mental health treatment for children adjudicated delinquent. Splitting the department is not cost effective, because a separate Department of Juvenile Justice would not have access to federal funding that supports the costs of some delinquent children who are placed in foster homes or contract agencies rather than state facilities. It would also result in increased administrative costs utilizing funds that would be better spent on improved programs and services for youth.

CHILD PROTECTIVE SERVICES

Support a **comprehensive review of the child protective services system** in Tennessee to identify current strengths and challenges and best strategies to streamline statutes, policies and practice leading to implementation of more effective, comprehensive and evidence-based approaches to preventing and responding to child maltreatment. There are a number of bills addressing various issues within the child protective services system in Tennessee [SB 853 (Black)/HB 329 (S. Jones), SB 856 (Black)/HB 332 (S. Jones), SB 916 (Burks)/HB 330 (S. Jones), SB 1534 (Burchett)/HB 1258 (Tindell), SB 1650 (Burks)/HB 1383 (S. Jones) and maybe others]. These bills have been introduced in response to concerns about the current system. A comprehensive, systematic approach to addressing the underlying issues leading to these bills would result in more thorough improvements.

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CHILDREN ON THE SEX OFFENDER REGISTRY

Vote **NO** on legislation [SB 392(Black)/HB 622 (Maggart), SB 1651(Burks)/HB 1474(Fincher) and SB 2223 (Faulk)/HB 2165 (Faulkner)] that would require **children** who are adjudicated delinquent for certain sexual offenses to be **on the Sex Offender Registry**.

SUMMARY

The Adam Walsh Child Protection and Safety Act of 2006 (HR 4472), often referred to as the Sex Offender Registration and Notification Act (SORNA), was signed by the President on July 27, 2006 and establishes new guidelines for placing juveniles adjudicated delinquent on the national sex offender registry. All states must place the youth identified under this act on their own state's registry and then forward the full registry to the federal government. The deadline for state compliance with the Act is July 2009. The Attorney General is authorized to provide up to two one-year extensions of the deadline. An extension request must include a description of the state's implementation efforts and an explanation why the extension is needed.

Youth who are 14 years of age or older and adjudicated delinquent for an offense comparable to or more severe than aggravated sexual abuse **must** register. SORNA Guidelines include offenses under laws that cover: engaging in a sexual act with another by force of the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

All youth on the registry are considered "Tier III" offenders and must register for **life**. If however, a youth has been "clean" for 25 years, their registration term can be reduced to 25 years.

Youth who are labeled sex offenders and are on the registry and who commit a violent crime must be imprisoned for no less than five and no more than 30 years, the term of which must run consecutively to any punishment for the original sex offense.

KEY FACTS

- Adolescent brains are not as developed as those of adults. Youth are biologically incapable of making decisions in the same way as an adult. In particular, the part of a youth's brain that deals with judgment and risk assessment is not fully formed.
- More than 9 out of 10 times the arrest of a child for a sex offense is a one-time event.
- Children who offend have fewer numbers of victims than adult offenders.
- Children who offend, on average, engage in less serious and aggressive behaviors than adults.
- Children whose conduct involves sexually inappropriate behavior do not pose the same threat to public safety as do adults.
- Children are more responsive to treatment than adults and are less likely to re-offend if provided appropriate treatment.
- Most children who offend can be safely maintained in the community under supervision by probation officers and be treated in outpatient treatment programs.
- Most children who offend are not sexual predators nor do they meet the accepted criteria for pedophilia.
- As many as 1/3 of sexually abused children will demonstrate some sort of sexual behavior problem in response to their own abuse.
- The National Center on Sexual Behavior of Youth (NCSBY) reports the sexual recidivism rate for juvenile sex offenders to be as low as 5%.
- There is no evidence that community notification reduces sex offense recidivism or increases community safety.

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CHILDREN ON THE SEX OFFENDER REGISTRY (Continued)

CONCERNS WITH THE IMPLEMENTATION OF THE ACT

- Adam Walsh requirements as applied to children are contrary to the core purposes, functions, and objectives of our nation's juvenile justice systems in that they strip away the confidentiality and the overall rehabilitative emphasis that form the basis of effective intervention and treatment for children who offend. In Tennessee's current judicial system, children charged with the most serious crimes are already transferred to adult court and required to register on the Sex Offender Registry.
- The Act as applied to children will disrupt families and communities across the nation because the requirements do not just stigmatize the child; they stigmatize the entire family including parents and other children in the home. In the overwhelming majority of the cases the address and telephone number the child has to provide will be the family's. The school information the youth has to provide will be the same school currently or soon to be attended by a sibling. The vehicle information the child provides will likely belong to his or her parent(s). The listing of this information can make children and their families vulnerable to harassment, threats, assaults and predators.
- The Act will almost certainly decrease parental willingness to report or seek help for children's sexual behavior problems when they understand the result will be lifetime public registration. In cases when the incident is intra-family and the victim may be a younger sibling or cousin, families are less likely to report the case resulting in children not receiving the treatment they need.
- Public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. In some cases, children who are required to register have been harassed at school, forcing them to drop out. The stigma that arises from community notification serves to "exacerbate the poor social skills" many children who offend possess, destroying the social networks necessary for rehabilitation. Education itself is vital to reducing the risk of further criminal behavior.
- Because residence restrictions are tied to registration status in most states, there will likely be an emergent housing crisis for children on registries who are prevented from living with their families due to proximity to schools, parks, and places where children congregate.
- Children implicated by the Act have not been convicted of a criminal offense. Rather they have been adjudicated delinquent and have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and long-term collateral consequences that typically accompany criminal convictions.

RECOMMENDATIONS

- Delay compliance with Adam Walsh as long as possible and advocate repeal of juvenile registration requirements at the federal level.
- If Tennessee establishes registration requirements, consider providing the juvenile court with the option of determining whether the child will be placed on the register even though this does not comply with Adam Walsh requirements.
- If Tennessee establishes registration requirements, assure they do not exceed the federal requirements:
 - For which youth need to register;
 - For what information needs to be on the registry; and
 - Tennessee regulations do not exceed the federal requirements for community notification.

CHILDREN ON THE SEX OFFENDER REGISTRY SOURCES

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